



State of Oregon
Department of
Environmental
Quality



OREGON
ASSOCIATION
OF REALTORS®

MEMORANDUM OF UNDERSTANDING

Between

OREGON ASSOCIATION OF REALTORS®

And

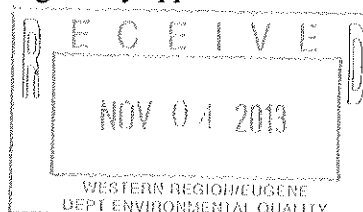
STATE OF OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

Collaborative efforts to implement a statewide, robust voluntary time of property transfer evaluation program for onsite septic systems

This Memorandum of Understanding (MOU) is entered into by and between the Oregon Department of Environmental Quality, hereinafter referred to as DEQ and the Oregon Association of REALTORS®, hereinafter referred to as Association.

Background:

1. Section 6217 of the federal Coastal Zone Reauthorization Amendments requires states and territories with approved Coastal Zone Management Programs to develop Coastal Nonpoint Pollution Control Programs in order to receive federal funding to address nonpoint pollution impacting or threatening coastal waters.
2. To be approved, a state's Coastal Nonpoint Pollution Control Program must include a management measure for existing septic systems that will prevent surface water discharge and reduce pollutant loadings to ground water. The measure must provide for the inspection of septic systems at a frequency adequate to ascertain whether the systems are failing and for the repair or replacement of failing systems.
3. Litigation filed in 2009 between Northwest Environmental Advocates and the Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA) regarding the approval of DEQ's Coastal Nonpoint Pollution Control Program resulted in a settlement agreement that included a mandatory time of property transfer inspection program for septic systems in the coastal nonpoint program management area.
4. In September 2012, DEQ proposed rules that would require onsite system inspections at the time of property transfer in the coastal nonpoint program management area. DEQ anticipated taking those rules to the Environmental Quality Commission (EQC) for adoption in March 2013. However, due to unforeseen circumstances described below, DEQ decided to postpone that action until October, 2013.
 - a. In the fall of 2012, DEQ was approached by state legislators and the Association regarding their concerns with the proposed regulations, and suggested DEQ consider a voluntary approach instead of a regulatory approach.



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- b. In November of 2012, Oregon voters approved a ballot measure prohibiting certain real estate transfer fees and taxes. This has the likely effect of eliminating the funding mechanism for implementing the time of property transfer program.
5. In light of the implications of the ballot measure and follow-up conversations with the Association, DEQ believes that, with the Association's assistance, DEQ will be able to implement a voluntary time of property transfer inspection initiative that will be equally as effective as the regulatory approach originally required under the settlement agreement, and would be more effective than an unfunded regulatory program would be. The voluntary approach has the added benefit of being applied statewide rather than restricted to the coastal area, which results in more widespread benefit to public health and the environment.

Purpose:

This MOU documents the roles and responsibilities of DEQ and the Association for implementing a statewide, robust voluntary time of property transfer evaluation program for onsite septic systems.

It is mutually agreed and understood by and between the parties that:

1. The parties will work together in a collaborative partnership to promote and increase education and awareness on the importance of onsite septic system inspections at the time of property transfer, and the importance of proper use and regular maintenance of onsite septic systems.
2. The parties will work together to recommend amendments to the *Law and Rule Required Course*, under ORS 696.174 and OAR 863-022-0055 to the Oregon Real Estate Board. DEQ intends to propose amendments to division 071 that would define components of an onsite evaluation and who is qualified to perform evaluations. If the amendments are adopted, the rule provisions will be included in future *Law and Rule Required Courses*.
3. The parties will work together to develop and provide training materials to members for continuing education on what a comprehensive inspection entails, the "do's and don'ts" for owners of septic systems, and maintenance requirements for septic systems. At least one training will be in the form of a webinar course that can be taken online. Training materials including the webinar will be made available to members within six months of EQC action on the proposed rules.
4. The parties will work together to amend the buyer advisory to include recommendations for having septic systems inspected at the time of property transfer, and the language from OAR chapter 340, division 071, if the proposed rule amendments identified above are adopted. Amendments to the advisory will be completed within six months of EQC action on the proposed rules.
5. The parties will work together to amend the seller advisory to include recommendations for having septic systems inspected at the time of property transfer, and the language from OAR chapter 340, division 071, if the proposed rule amendments identified above are adopted.

Amendments to the advisory will be completed within six months of EQC action on the proposed rules.

6. The parties will work together to develop a *new homebuyer packet* that will include the “do’s and don’ts” for owners of septic systems, maintenance requirements for septic systems and references to additional resources in a form that can be viewed electronically.
7. The parties will work together to advise and encourage lenders, appraisers and other groups involved in real estate transactions as to the benefits of onsite septic inspections at the time of transfer of property.
8. The parties will work together to provide educational content to local REALTOR® association offices in the state.
9. DEQ will provide up to 1.0 FTE of staff time for one year to fulfill these agreements.
10. DEQ will update the DEQ website to include information on the voluntary program and links to external sources of related information including the Association website and EPA website.
11. The Association will provide the resources necessary to fulfill these agreements.
12. The Association will provide the *new homebuyer packet* to all members and will encourage members to provide the *new homebuyer packet* to their clients.

Modification:

Modifications of this Memorandum of Understanding may be made by written agreement signed by both parties.

Termination:

Any of the parties may, in writing, terminate the agreement in whole, or in part, at any time.

Principal Contacts:

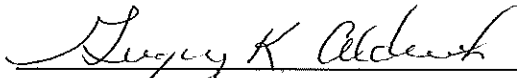
The principal contacts for this agreement are:

DEQ Contact
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Onsite Wastewater Specialist
165 East 7th Avenue, Suite 100
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Association Contact
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Legislative Policy Director
2110 Mission Street SE, #230
Salem OR 97302
Phone: 503-362-3645
E-mail: mvandyke@oregonrealtors.org

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last date written below:

For the OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

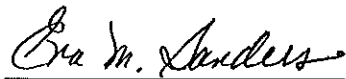


Greg Aldrich, Water Quality Administrator

11-6-2013

Date

For the OREGON ASSOCIATION OF REALTORS®



Eva Sanders, President

11-1-13

Date